



WASHOE COUNTY

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CM/ACM JOH
Finance VG
DA LA
Risk Mgt. DE
HR -
Other -

STAFF REPORT
BOARD MEETING DATE: July 14, 2015

DATE: June 18, 2015
TO: Board of County Commissioners
FROM: Ken Retterath, Division Director, Adult Services
kretterath@washoecounty.us 775.785.8600

THROUGH: Kevin Schiller, Assistant County Manager

SUBJECT: Approve an Interlocal Contract Between Public Agencies (Nevada Department of Health and Human Services Division of Health Care Financing and Policy and Washoe County) in an annual amount of \$1.5 million for the period retroactive from July 1, 2015 through June 30, 2017 for the Disproportionate Share Program (DSH).

(All Commission Districts)

SUMMARY

Approve an Interlocal Contract Between Public Agencies (Nevada Department of Health and Human Services Division of Health Care Financing and Policy and Washoe County) in an annual amount of \$1.5 million for the period of July 1, 2015 through June 30, 2017 for the Disproportionate Share Program (DSH).

This agreement is retroactive due to the time required to obtain the required approvals.
County Strategic Priority supported by this item: Safe, secure and healthy communities

PREVIOUS ACTION

On June 25, 2013, the Board approved the Interlocal contract for the DHS Program for July 1, 2013 through June 30, 2015.

On June 28, 2011, the Board approved the Interlocal contract for the Intergovernmental Transfer Program for July 1, 2011 through June 30, 2013.

The Board has approved agreements in a biennial basis beginning in 2003.

BACKGROUND

The Intergovernmental Transfer Program allows Washoe County to benefit from the Medicaid Program known as the Disproportionate Share Program (DSH). Under this program the Nevada Medicaid Program receives federal funds, which are allocated to those hospital providers that serve a disproportionate share of Medicaid patients. Renown Medical Center is the only northern Nevada hospital provider that is eligible to receive DSH payments.

The Intergovernmental Transfer Program has been in its current form since 2001 when the State Legislature passed A.B. 377. Pursuant to A.B. 377, Washoe County was required to transfer \$1.5 million to the State Medicaid program each year of the biennium, which served as matching funds for the DSH Program.

FISCAL IMPACT

Funding for this agreement is included in the Department's adopted FY 2016 budget in IO#60302 – 710400 and will similarly be budgeted in FY 2017.

RECOMMENDATION

Approve an Interlocal Contract Between Public Agencies (Nevada Department of Health and Human Services Division of Health Care Financing and Policy and Washoe County) in an annual amount of \$1.5 million for the period retroactive from July 1, 2015 through June 30, 2017 for the Disproportionate Share Program (DSH).

POSSIBLE MOTION

Should the board agree with the staff's recommendation, a possible motion would be to move to "approve an Interlocal Contract Between Public Agencies (Nevada Department of Health and Human Services Division of Health Care Financing and Policy and Washoe County) in an annual amount of \$1.5 million for the period retroactive from July 1, 2015 through June 30, 2017 for the Disproportionate Share Program (DSH)".

INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada
Acting By and Through Its

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH CARE FINANCING AND POLICY**

1100 E. William Street, #108
Carson City, Nevada 89701
Phone (775) 684-3636 Fax (775) 684-3799

and

WASHOE COUNTY

PO Box 11130
Reno, Nevada 89520-0027
Phone (775) 785-5641 Fax (775) 785-5640

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, it is deemed that the services of Washoe County hereinafter set forth are both necessary to the Division of Health Care Financing and Policy (DHCFP) and in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. **CONTRACT TERM.** This Contract shall be effective retroactively from July 1, 2015 to June 30, 2017, unless sooner terminated by either party as set forth in this Contract.
4. **TERMINATION.** This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Contract is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.
6. **INCORPORATED DOCUMENTS.** The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK
ATTACHMENT B: BUDGET PROPOSAL

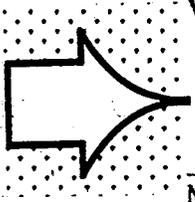
7. CONSIDERATION. The County agrees as set forth in paragraph (6), to transfer to DHCFP 1.95 percent of the total amount of disproportionate share payments distributed to all hospitals, for each fiscal year, but not to exceed ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) per year, with a total Contract amount not to exceed THREE MILLION DOLLARS (\$3,000,000) for the contract term. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.
8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.
9. INSPECTION & AUDIT.
 - a. Books and Records. Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
 - b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
 - c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed attorneys.
11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.

12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.
13. INDEMNIFICATION.
- a. To the fullest extent of limited liability as set forth in paragraph (11) of this Contract, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.
- b. The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.
14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.
15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.
16. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the unenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.
18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.
19. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

20. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.
21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in paragraph (6).
22. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Contract.
23. ENTIRE AGREEMENT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

Washoe County Commission



Marsha Berkgigler

Date

Chairwoman
Title

**Department of Health and Human Services
Division of Health Care Financing and Policy**

Leah Lamborn

Date

Chief Fiscal Officer, DHCFP
Title

Laurie Squartsoff

Date

Administrator, DHCFP
Title

Richard Whitley

Date

Interim Director, DHHS
Title

Signature – Nevada State Board of Examiners

APPROVED BY BOARD OF EXAMINERS

Approved as to form by:

On _____
(Date)

Deputy Attorney General for Attorney General, State of Nevada

On _____
(Date)

ATTACHMENT A

ATTACHMENT A
WASHOE COUNTY INTERGOVERNMENTAL TRANSFER (IGT)
SCOPE OF WORK

1. This contract is undertaken between the Department of Health and Human Services, Division of Health Care Financing and Policy (DHCFP) and Washoe County (County) in an effort to provide a means by which funds allocated by County for certain indigent services can be combined with federal matching funds for persons eligible for Medicaid or other indigent individuals in Nevada. Nothing contained in this contract is intended to diminish the scope and quality of medical services provided to individuals qualified by eligibility standards adopted by County.
2. DHCFP and County, by joining in this contract, agree that existing medical coverage and services to individuals will be maintained in a manner so as to prevent the transfer of responsibility for medical care for such individuals from the State of Nevada to any county government in the state.
3. The parties agree that the services or activities to be performed are as follows:
 - a. Pursuant to NAC 422.105 section 2 the County shall transfer to DHCFP 1.95 percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to this chapter and NRS 422.380 to 422.390, inclusive, for the current fiscal year, but not more than ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) per year, with a total Contract amount not to exceed THREE MILLION DOLLARS (\$3,000,000) for the contract term. Payment shall be made in quarterly payments as determined by DHCFP. The payment for each quarter shall be due no later than the 30th day of the first month of each quarter (July 30, October 30, January 30, and April 30). The source of funds for the payment must be in accordance with NRS 422.382.
 - b. If the County pays the amounts specified above, NAC 422.105 section 3 waives the County's obligation to pay for medical treatment for indigent inpatients pursuant to NRS 428.010, NRS 428.030 and NRS 450.500, for those indigent inpatients that are treated at Renown Regional Medical Center. For the purposes of this Contract, such obligation includes the obligation for all such payments to such hospitals for which the County is directly responsible including payments under NRS 428.235.
 - c. County shall make the determination of eligibility for medical and financial assistance pursuant to NRS 428.015. County may use such forms, as it deems appropriate for such determinations. County will make such reports for this purpose as may be prescribed by DHCFP.
4. Nothing in this contract shall be construed in such a manner as to limit the ability of County to determine eligibility for medical and financial assistance to indigent persons in accordance with NRS 428.015.

5. The parties agree that all services rendered under this contract shall be provided in compliance with the Federal Civil Rights Act of 1964, and the Americans with Disabilities Act, as amended, and no person shall be unlawfully denied service on the grounds of age, race, creed, color, sex, national origin, or handicap.
6. The parties hereby agree that all information regarding individuals receiving services as a result of this contract is and shall remain confidential, and shall not be disseminated by any party except for purposes directly related to the provision of services under this contract. See NRS 428.045(3).
7. The parties must expend and account for contract funds in accordance with applicable federal regulations. Fiscal control and accounting procedures must be sufficient to:
 - a. Permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable contract or regulatory requirements and statutes; and
 - b. Provide information pertaining to the actual cost of making eligibility determinations pursuant to NRS 428.015 and this contract.
8. The parties shall comply with all applicable local, state, and federal laws in carrying out the obligations of this contract, including all federal and state accounting procedures and requirements.

ATTACHMENT B

**Washoe County DSH Interlocal
Budget Proposal**

	SFY 2016	SFY 2017	Contract Total
Original contract	\$ 1,500,000.00	\$ 1,500,000.00	\$ 3,000,000.00
	\$ -	\$ *	\$ -
Total	<u>\$ 1,500,000.00</u>	<u>\$ 1,500,000.00</u>	<u>\$ 3,000,000.00</u>